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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION

12 SONY CORPORATION, A Japanese
13 corporation,

14 Plaintiff,

15 vs.

16 VIZIO INC., A California corporation,

17 Defendant.

CASE NO. CV-01135-AHS-AN

TIME-SENSITIVE

SONY CORPORATION'S *EX PARTE*
APPLICATION SEEKING WAIVER OF
L.R. 7-3'S 20-DAY WAITING PERIOD
AND SHORTENING OF BRIEFING
SCHEDULE REGARDING SONY'S
MOTION FOR RECONSIDERATION
OF TRANSFER ORDER;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF

[PROPOSED] ORDER FILED
CONCURRENTLY HEREWITH

The Honorable Alicemarie H. Stotler

Hearing Date and Time: TBD

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Pursuant to Local Rule 7-19, Plaintiff
3 Sony Corporation ("Sony") will, and hereby does, apply *ex parte* for entry of the
4 accompanying [Proposed] Order regarding Waiver of L.R. 7-3's 20-Day Waiting
5 Period and Shortening of Briefing Schedule Regarding Sony Corporation's Motion
6 for Reconsideration of Transfer Order.

7 Pursuant to Local Rules 7-19 and 7-19.1, on November 17, 2008,
8 notified Vizio Inc.'s ("Vizio") counsel of the date, time, and substance of this *ex*
9 *parte* application. Vizio's counsel opposes this application. The name of Vizio's
10 counsel is James L. Wamsley III and William J. Brown, Jr. of Jones Day. Mr.
11 Wamsley's business address is 901 Lakeside Avenue, Cleveland, Ohio 44114;
12 phone: 216-586-3939. Mr. Brown's business address is 2 Park Plaza, Suite 1100,
13 Irvine, California 92614.

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16 DATED: November 19, 2008

QUINN EMANUEL URQUHART OLIVER &
HEDGES, LLP

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19 By

 / FOR

Kevin P.B. Johnson
Attorneys for Plaintiff Sony Corporation

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Plaintiff Sony Corporation ("Sony") respectfully applies *ex parte* to this
3 Court for an order of Waiver of Local Rule 7-3's 20-Day Waiting Period and
4 Shortening of Briefing Schedule Regarding Sony Corporation's Motion for
5 Reconsideration of Transfer Order.

6 As set forth in greater detail in Sony's Motion for Reconsideration of
7 Transfer Order and supporting documents in accordance with Local Rule 7-18,
8 material facts presented to the Court were respectfully overlooked in its decision to
9 decline intra-district transfer of this case (the "Vizio Action"). Specifically, Judge
10 Klausner denied intra-district transfer of the Vizio Action as a related case to his
11 docket, where Sony already has a related patent infringement case pending entitled
12 Sony Corp. v. Westinghouse Digital Electronics, LLC, CV08-03934 RGK (FMOx)
13 ("Westinghouse Action"), despite the fact that the 14 patents-at-issue in the Vizio
14 Action included all 10 of the patents-at-issue in the Westinghouse Action and the
15 accused products in each are digital televisions (Sony's First Amended Complaint
16 filed on November 14, 2008 dropped 4 patents and as a result, the Vizio Action and
17 the Westinghouse Action now involve the same 10 patents). Thus, the two actions
18 involve the same plaintiff, the same patents, the same underlying technology, and
19 the same types of infringing products and are therefore unquestionably substantially
20 related, involving the same or substantially identical questions of law and fact.

21 Accordingly, a transfer of the Vizio Action to Judge Klausner's docket
22 would benefit judicial economy by preventing the unnecessary and inefficient
23 duplication of judicial efforts and eliminate the risk of inconsistent substantive
24 rulings. For example, if the Vizio Action were not transferred, both this Court and
25 Judge Klausner would engage in claim construction for the same 10 patents and
26 would consider summary judgment motions applying those patents against the same
27 types of products, with a corresponding duplication of efforts and risk of
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1 inconsistent rulings. Similarly, both Judge Klausner and Judge Stotler would likely
2 address the same prior art issues as well.

3 Expedited consideration of Sony's motion for reconsideration is
4 warranted. Vizio's answer is currently due December 15, 2008. Soon thereafter the
5 Court will set a Rule 16 conference, and discovery will commence. Accordingly, it
6 is in the interest of the Court and the parties to resolve the issue of intra-district
7 transfer as soon as possible before it is necessary for the Court to engage in
8 duplicative efforts of apprising itself of the nature of the case and of the 10 patents
9 and accused products at issue.

10 Sony and Vizio met and conferred on the substance of Sony's motion
11 for reconsideration six days ago on November 13, 2008. Sony therefore requests
12 that the Court waive the 20-day waiting period set forth in Local Rule 7-3 and allow
13 for the immediate filing of Sony's Motion to Reconsider Transfer Order. Sony also
14 requests that the parties' briefing schedule be shortened as follows: Sony's Motion
15 for Reconsideration to be filed on November 19, 2008, Vizio's opposition, if any, to
16 be filed on November 26, 2008, and Sony's reply to be filed on December 2, 2008,
17 with a hearing date tentatively set for December 8, 2008. For the foregoing reason,
18 Sony's requested relief should be granted.

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20 DATED: November 19, 2008

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22 By  FOR
23 Kevin P.B. Johnson
24 Attorneys for Plaintiff Sony Corporation
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